

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

---

**Thomas J. Callahan,**  
Petitioner-Appellant,

**v.**

**Jackson County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 12-49-0582**  
**Parcel No. 82-17-24-355-004-000**

---

On March 4, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Thomas J. Callahan requested his appeal be considered without a hearing. He was self-represented. County Attorney Sara Davenport is counsel for the Board of Review. County Assessor Debra L. Lane submitted evidence on behalf of the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Thomas J. Callahan, owner of property located at 305 East Angus Court, Maquoketa, Iowa, appeals from the Jackson County Board of Review decision reassessing his property. The real estate was classified as residential on the initial assessment of January 1, 2012, and valued at \$182,200, representing \$22,100 in land value and \$160,100 in dwelling value. The record indicates this was a change from the 2011 assessment and therefore all grounds for appeal under section 441.37 are available.

Callahan protested to the Board of Review on the grounds that the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section

441.37(1)(a)(1); and that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). The Board of Review denied the protest.

Callahan then filed his appeal with this Board based on the same grounds. He requested a reduction in value to \$168,800, allocated \$22,100 to land value and \$146,700 to dwelling value based on the value of a similar property.

According to the property record card, the subject property consists of a one-story, frame dwelling with 1995 square feet of total living area and a 600 square-foot, attached garage, built in 1976. It has a full basement with 975 square feet of living quarters finish; a 240 square-foot deck; and a 15 square-foot, open porch. The dwelling has a good (3+00) quality grade and is in excellent condition. The improvements are situated on a 0.38-acre site in the Rosemere Acres subdivision.

In support of his equity claim, Callahan identified five properties for comparison. While most of the properties Callahan considered as equity comparables are one-story dwellings, the property at 1000 North Angus Court is a two-story brick, which is dissimilar from the subject property. Therefore, we did not include it. The following is a summary of his information.

| <b>Address</b>         | <b>TSFLA</b> | <b>Assessed Building Value</b> | <b>Cost Per Square Foot</b> | <b>Sales Date</b> | <b>Garage Size</b> |
|------------------------|--------------|--------------------------------|-----------------------------|-------------------|--------------------|
| Subject                | 2970         | \$ 160,100                     | \$ 53                       | June 2007         | 600                |
| 308 East Angus Court   | 2003         | \$ 114,100                     | \$ 57                       | June 2010         | 520                |
| 300 East Angus Court   | 2110         | \$ 100,100                     | \$ 48                       | May 2011          | 672                |
| 1004 North Angus Court | 2735         | \$ 124,200                     | \$ 45                       | Aug 2011          | 840                |
| 301 East Angus Court   | 2914         | \$ 140,100                     | \$ 48                       | Sept 2000         | 1102               |

Callahan indicates the “square feet of living area” for each property, which includes the basement finish. He then divides this calculation into the assessed building value to arrive at a per-square-foot figure. Generally, the above-grade finish is used for this type of calculation. Using the above-grade total living area of the one-story properties, the assessed value per-square foot ranges from \$90.84 to \$106.81 per-square foot. The subject property’s assessed value per-square foot of \$91.33 is well within this range and does not suggest inequity in the assessment. Additionally,

although the properties are similar in age, Callahan does not provide information to determine whether the properties are comparable, such as condition, quality, site size, and other amenities. Callahan indicates that four of the properties sold within the last two years, but failed to compare the sale prices and assessments to complete an equity analysis. Additionally, he did not adjust the sales or provide any other evidence of the correct market value as of January 1, 2012, to support a market value claim. Because of these shortcomings, we give this evidence no weight.

County Assessor Debra Lane prepared a critique of Callahan's evidence. First, Lane completed a computer-generated search for an equity analysis using Callahan's comparable properties. Cost adjustments to account for differences were made to the assessed values using the IOWA REAL PROPERTY APPRAISAL MANUAL. We note the assessments were developed using this cost manual. The amount of adjustment ranged considerably, one property requiring more than \$63,000 in upward adjustment. Lane selected two properties that required the least adjustment and that she determined were most comparable. We note one of these is 1000 North Angus Court, which we find dissimilar. While Lane believes these two properties support Callahan's assessment, we ultimately give it no weight. We do not consider this analysis to be correctly developed for an equity claim.

Lane also completed a computer-generated comparable sales search. She selected one-story and split-foyer dwellings in Maquoketa that sold between January 2011 and February 2013. The properties were built between 1966 and 2004. Cost adjustments were made to account for differences between the subject and the comparable properties using the APPRAISAL MANUAL. The cost-adjusted values range from \$178,905 to \$185,792, bracketing Callahan's assessment. Since a sales approach generally uses market based adjustments to the sales data, we give this evidence limited consideration.

Additionally, the assessor reports Callahan has extensively remodeled the interior and basement of the subject property by adding a 405 square-foot addition with basement, as well as a 240 square-foot deck since it was purchased in June 2007 for \$125,000.

Viewing the record as a whole, Callahan's claims fail because the preponderance of the evidence does not prove inequitable assessment or over-assessment as of January 1, 2012.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

*City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

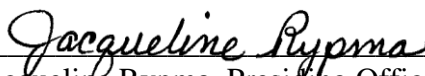
Callahan did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests. A comparison of the above-grade total living area of Callahan’s comparables with the subject property does not indicate the subject property is inequitably assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The sales comparison data provided by Callahan and by Lane do not support a finding that the subject property is assessed for more than authorized by law. Although Callahan indicated four of his comparables sold in 2010 and 2011, he did not adjust the sales to account for differences between them and the subject property. He did not provide any other evidence establishing the subject’s market value as of January 1, 2012, to support his over-assessment claim.

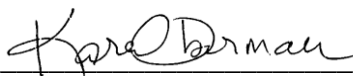
Viewing the evidence as a whole, Callahan did not provide sufficient evidence to establish inequitable assessment or over-assessment as of January 1, 2012. Therefore, we affirm the property assessment as determined by the Board of Review of \$182,200, representing \$22,100 in land value and \$160,100 in dwelling value as of January 1, 2012.

THE APPEAL BOARD ORDERS that the January 1, 2012, assessment as determined by the Jackson County Board of Review is affirmed as set forth above.

Dated this 20th day of March, 2013.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

Copies to:  
Thomas J. Callahan  
305 E. Angus Court  
Maquoketa, IA 52060  
APPELLANT

Sarah Davenport  
Jackson County Attorney  
201 W Platt Street  
Maquoketa, IA 52060  
ATTORNEY FOR APPELLEE

|  |  |
|--|--|
| Certificate of Service   |  |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>March 20, 2013</u> . |  |
| By:  | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX         |
|  | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier |
|  | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other             |
|    |  |
| Signature _____  |  |